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RUEHMN/AMEMBASSY MONTEVIDEO 7549  
RUEHSG/AMEMBASSY SANTIAGO 0620  
RUEHRG/AMCONSUL RECIFE 8536  
RUEHRI/AMCONSUL RIO DE JANEIRO 6700  
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C O N F I D E N T I A L SECTION 01 OF 03 BRASILIA 001314

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SUBJECT: SUPREME COURT WIRETAP SCANDAL CHANGES FACE OF  
BRAZILIAN INTELLIGENCE

Classified By: Deputy Chief of Mission Lisa Kubiske for reason 1.4 (b)  
and (d)

¶1. (C) Summary: Long-running suspicions that phone calls of high-level Brazilian officials from all three branches of government are being intercepted became the latest front-page scandal when Veja magazine reported that the Brazilian Intelligence Agency (ABIN) had tapped conversations between a Senator and Federal Supreme Court (STF) President Gilmar Mendes. Pressure from the STF and others to take swift action to avoid an institutional crisis between the branches of government forced Lula to suspend ABIN Director Paulo Lacerda until an investigation is completed. As a result of the accusations against ABIN, the Brazilian Congress is looking to re-establish the long-dormant intelligence oversight committee to try to bring ABIN under control. Any possibility that Congress would heed Lacerda's call to grant wiretapping authority in terrorism cases for ABIN is now a non-starter, and GOB efforts to increase integration of the intelligence system in Brazil have suffered a blow. The scandal stems in part from an identity crisis in ABIN, itself a symptom of Brazil's failure to articulate a coherent and credible national security strategy that clearly delineates the threats ABIN should monitor. End summary.

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Lula's Hand Forced, Replaces ABIN Leadership  
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¶2. (U) An institutional conflict between the branches of government was unleashed when the September 3rd edition of weekly magazine Veja published transcripts of intercepted conversations between STF President Mendes and opposition Senator Demonsthenes Torres (DEM-Goiás), supposedly conducted by ABIN (Note: ABIN does not have the legal authority to conduct wiretaps. End note.) The explosive revelations moved Lula to suspend ABIN Director Paulo Lacerda, his deputy Jose Milton Campana, and counter-intelligence chief Paulo Mauricio Fortunato Pinto, until the Federal Police (DPF) finished an investigation of who conducted the wiretaps. Minister of Institutional Security Jorge Felix -- who oversees ABIN and also denies that ABIN had anything to do with the wiretaps -- offered to resign after Defense Minister Jobim undermined Felix's claims that ABIN lacked the capacity to conduct wiretaps when Jobim revealed to Lula that ABIN had allegedly purchased such equipment through the Defense Ministry. Lula refused Felix's offer of resignation, although analysts

believe that the perception that he has failed to reign in ABIN has undermined his status within the Government. Subsequent press articles have indicated that an initial Federal Police investigation did not find evidence suggesting that ABIN possesses equipment to intercept communications, although the Federal Police has not concluded its investigation.

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A theory: why ABIN did it  
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13. (U) Although it remains unclear why Mendes' phone was tapped, the prevailing hypotheses -- which polioff contacts have deemed credible, but unsubstantiated-- holds that the cause of Mendes's wiretaps is traced back to the DPF's four year long Operation Satiagraha, an investigation into possibly illegal financial transactions between banker Daniel Dantas and the government, which started when Lacerda was director of the DPF. After Lacerda moved to ABIN last year and was replaced at the DPF by Luiz Fernando Correia, Satiagraha's lead investigator -- an ally of Lacerda -- attempted to get additional personnel and resources to continue the Dantas investigation from the DPF's new leadership but did not receive it. Although Lacerda has denied doing anything improper, ABIN apparently lent support to the Dantas investigation. According to several news reports, ABIN lent more than 50 officials to Operation Satiagraha, in comparison to the 23 that the DPF had assigned to the case. The 12 September edition of daily newspaper Estado de Sao Paulo reported that it was upon learning of the

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extent of ABIN's support for Satiagraha that Lula decided to make Lacerda's suspension permanent.

14. (U) At the conclusion of Satiagraha, when Dantas was finally placed under temporary arrest (a type of arrest that is allowable for a maximum of five days in order to prevent the suspect from hindering, for example, a search warrant), STF quickly granted a habeas corpus motion and ordered Dantas' immediate release. The Sao Paulo money laundering judge in the case, Fausto Martin de Sanctis, issued another arrest warrant, this time for preventive arrest (another type of arrest that can be ordered when the suspect poses a flight risk), which was again immediately overruled by the STF, slapping de Sanctis on the wrist in the process. As a result of STF's actions, so the theory goes, the Satiagraha investigators in the DPF, Lacerda, and de Sanctis, suspected improper behavior on the part of Mendes and had his phones tapped to investigate whether Mendes had any links to Dantas.

So far, however, no proof has surfaced supporting this hypothesis. The possibility that rogue elements within ABIN conducted the wiretap on their own -- some of whom are holdovers from ABIN's precursor, the military era National Information Service (SNI) -- still is also a possible explanation.

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Congress Taking Action to Rein in ABIN  
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15. (C) Another casualty of the wiretapping scandal is the effort by Paulo Lacerda to gain wiretap authority for ABIN in terrorism cases. According to Roberto Carlos Martins Pontes, a Chamber of Deputies Legislative aide working on the Congressional Investigative Committee on Wiretaps, there is now no chance that Congress will consider giving it such authority any time soon. Furthermore, it is possible that Congress may see a need to impose further restrictions on how closely the DPF and ABIN can work together in light of what happened in the Dantas case, which is viewed, according to Pontes, as either outright illegal or skirting uncomfortably close to it. STF President Mendes, echoed similar thoughts when he publicly stated he feared such close cooperation, which, in his words, could lead to systematic violations of

civil rights.

¶16. (C) Joanisval Brito, a Senate legislative advisor and that body's leading expert on national defense and intelligence issues, told poloff that this was another sign of ABIN's weakness within the government, and pointed to the fact that with Lacerda's replacement taking office, ABIN had seen five directors in the six years since Lula took office. He added that whether the wiretaps were institutional or the result of rogues -- he thought the latter more likely -- the crisis points to ABIN's continued search for a consolidated place within the Brazilian government, something it has been struggling to achieve since the feared SNI was tossed aside after the end of the military regime. He further noted that a weakened ABIN could halt reform efforts that Lacerda began instituting at the agency. If other entities lack confidence in ABIN or if Congress imposes restrictions on how ABIN can work with other agencies, as is probable, then Lacerda's efforts to better integrate the intelligence system in Brazil will suffer a blow (ref b).

¶17. (C) According to Brito, Congress is re-convening the Joint Committee for the Control of Intelligence Bodies, which has not met in several years. Brito told poloff that Congress is now looking at either reinvigorating the committee or creating a new one, and is looking at models from other countries. The reason the existing committee does not do its work effectively, he noted, is that there are no secure facilities within the Congress for the committee to discuss classified matters, nor does the committee have any permanent staff assigned to it. Brito noted that the Brazilian Congress is looking at how other countries' legislatures conduct oversight of intelligence as models for Brazil to follow. (Note: Brito noted that the Congress is considering a visit to the U.S. to meet with SSCI and HPSCI. Post will follow up

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with Brito and other key people in the Brazilian Congress.  
End note.)

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Comment:  
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¶18. (C) ABIN, never a heavyweight to begin with, has now suffered a devastating blow. ABIN's failure to adjust to post-military regime realities and find for itself a comfortable balance between competing interests in the security sphere of the Brazilian government, has reduced it to an institutional bantam-weight player. Any chance that ABIN could regain a measure of prestige under Lacerda's leadership is gone. Along with the hope that ABIN could take on a more robust role in countering terrorism, reform and renewal at ABIN will have to await new leadership, and may now be more than the agency can hope for.

¶19. (C) ABIN's identity crisis is in part a symptom of a larger issue, the failure of Brazil's leaders, harkening back to the end of the military regime, to articulate a coherent and credible national security strategy that delineates the threats Brazil's intelligence agency should monitor. Politically, Lula seems to have contained this new scandal by acting quickly in getting rid of ABIN's leadership, although the Supreme Court and many in Congress have begun looking at the larger issue of wiretaps (septel) and may be holding their fire in this case with the expectation that the Lula government will take further action to stop the apparent politicization of ABIN's activities. End comment.  
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